

YAVAPAI COUNTY ATTORNEY'S OFFICE
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SUPERIOR COURT
2009 SEP 16 PM 2:57 ✓
JEANNE HOLS. CLERK
BY: Heather Figueroa

IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

CR 2008-1339

Plaintiff,

Division 6

v.

STEVEN CARROLL DEMOCKER,

STATE'S MOTION TO COMPEL UBS
FINANCIAL SERVICES TO PRODUCE
ANY AND ALL ITEMS REQUESTED
PER SUBPOENA DUCES TECUM AND
FOR *IN CAMERA* INSPECTION AND
ORDER.

Defendant.

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy, Joseph C. Butner, respectfully submits its Motion to Compel UBS Financial Services To Produce Any and All Items Requested per Subpoena *Duces Tecum* dated April 16, 2009, and for an *in camera* inspection of those documents.

On April 16, 2009, UBS Financial Services was served with a Subpoena *Duces Tecum* requesting the following documents:

1. List of all accounts where Defendant was agent of record, past and present from the start of Defendant's employment with UBS.
2. List of all foreign bank accounts (personal or client) set up by Defendant.
3. List of all accounts to which Defendant had signing authority.
4. Defendant's personnel file, record of employment, including any reprimands.

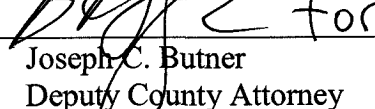
- 1 5. List of all accrued benefits and awards, including pension, deferred compensation
2 and retiring agent agreements.

3 On May 18, 2009 UBS provided a response attached as exhibit A. While the State has
4 received Defendant's personal accounts, documents related to his IRA account, and what
5 appears to be a bare-bones record of employment, UBS has failed to provide any documents
6 related to the following: 1) a list of accounts to which Defendant was agent of record other
7 than personal accounts; 2) a list of any foreign bank accounts (personal or client) set up by
8 Defendant; 3) a list of all accounts to which Defendant had signing authority; and 4) a list of
9 all accrued benefits and awards, including pension, deferred compensation and, specifically,
10 Defendant's "Retiring Agent Agreement".

11 The State's effort to obtain these documents has been frustrated by Defendant's
12 previous employer; therefore, the State requests that this Court enter an order compelling
13 UBS Financial Services to produce the requested documents. Because many of these
14 documents may contain the protected information of Defendant's former clients, the State
15 requests that the documents be inspected *in camera* prior to their receipt by the State.
16
17
18

19 RESPECTFULLY SUBMITTED this 16th September, 2009.

20
21 Sheila Sullivan Polk
22 YAVAPAI COUNTY ATTORNEY

23 By:  for
24 Joseph C. Butner
25 Deputy County Attorney
26

///

Office of the Yavapai County Attorney

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COPIES of the foregoing delivered this
16th day of September, 2009 to:

Honorable Thomas J. Lindberg
Division 6
Yavapai County Superior Court
(via e-mail)

John Sears
107 North Cortez Street, Suite 104
Prescott, AZ 86301
Attorney for Defendant
(via email and Courthouse box)

Larry Hammond
Anne Chapman
Osborn Maledon, P.A.
2929 North Central Ave, 21st Floor
Phoenix, AZ
Attorney for Defendant
(via email and USPS)

Tom Henze
Gallagher & Kennedy
2575 East Camelback Road
Phoenix, AZ 85016-9225
Attorney for UBS Financial Services
(via USPS)

By: Web Currell

EXHIBIT “A”

Letter from Tom Henze/Gallagher & Kennedy
dated May 18, 2009

GALLAGHER & KENNEDY

P.A.
LAW OFFICES

TOM HENZE
DIRECT DIAL: (602) 530-8592
E-MAIL: TEH@GKNET.COM

May 18, 2009

RECEIVED
YAVAPAI COUNTY ATTORNEY

MAY 21 2009

VERDE OFFICE

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ORIGINAL VIA FEDERAL EXPRESS - STANDARD OVERNIGHT
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Mark K. Ainley, Esq.
Deputy County Attorney
YAVAPAI COUNTY ATTORNEY'S OFFICE
255 East Gurley Street
Prescott, Arizona 86301

RECEIVED
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YAVAPAI COUNTY ATTORNEY MAY 19 2009

YAVAPAI COUNTY ATTORNEY

Re: Subpoena Duces Tecum to UBS Financial Services, issued April 16, 2009
State of Arizona v. Steven Carroll DeMocker, CR 2008-1339

Dear Mr. Ainley:

Please find enclosed the documents produced by UBS Financial Services ("UBS") which are responsive to the subpoena *duces tecum* issued by you on April 16, 2009. You should be receiving this correspondence and the production via Federal Express Standard Overnight delivery by tomorrow, Tuesday, May 19, 2009.

This production includes:

1. A list of all accounts in the name of Steven C. DeMocker [1 page]. This one page document is the only document not contained on the enclosed CD.
2. A copy of UBS Partner Plus Statements I [3 pages].
3. A copy of UBS Partner Plus Statements II [5 pages].
4. A copy of UBS's personnel file for Mr. DeMocker [25+41 pages].
5. A copy of UBS's 401K file for Mr. DeMocker [88+6 pages].

As with previous productions, instances in which the confidential information of UBS clients is contained in the documents produced, confidentiality is required with such information. Pursuant to our previous agreements and an order of the Court, please do not disclose publicly any such confidential information without giving UBS the

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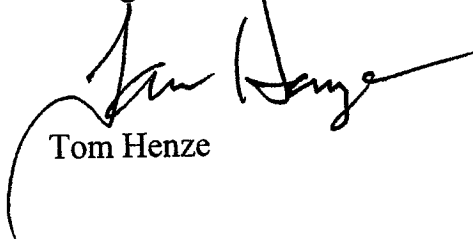
Mark K. Ainley, Esq.
May 18, 2009
Page 2

opportunity to be heard on the public disclosure. This is not intended to inhibit your use of the documents but to address the sensitive area of the treatment of third party confidential information which UBS has a business and legal obligation to protect.

If you need any assistance in working with these documents, please contact me and I will try to arrange for the appropriate UBS employee who has the requisite knowledge to be available to assist you.

Very truly yours,

Gallagher & Kennedy, P.A.



Tom Henze

TH/smr
Enclosures

cc: Joseph C. Butner, III, Esq. (via facsimile)
Anthony Raccuglia, Esq.
Steven W. Hawkins, Esq.

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